IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

PRESENT:

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO :18535 of 2007

DATED:31.8.2007.

Between:

1.The Govt of A.P rep by its Secretary
PR & RD Dept, Secretariate, Hyd & others.

.....PETITIONERs

AND

J.Chittibabu.

.....RESPONDENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO:18535 OF 2007

ORDER: (Per the Honourable Smt.Justice T.Meenakumari)

The petitioners have filed the present writ petition seeking to call for the records pertaining to the order dated 22.12.2006 in O.A.No:3680 of 2005 of the Tribunal and set aside the same.

The respondent is the applicant. He has filed the O.A seeking to call for the records leading to upto and inclusive of the proceedings Vide No:B3/5765/2001-PDR, dated 13.11.2003 issued by the 4th respondent and set aside the same as illegal and contrary to Rule 9 (2) (b) (i) and (ii) of A.P. Revised Pension Rules, 1980 and consequently, direct the respondents to pay all the retrial benefits including the amounts that were withheld immediately. The tribunal having observed that the first and foremost condition required under rule 9 (2) (b) (i) and (ii) of A.P. Revised Pension Rules, that the Disciplinary Authority should obtain the sanction orders from the Government and shall not be in respect of more than 4 years before such institution and the respondents themselves admitted that the charges are barred by

limitation in view of the fact that the allegation pertains to the year 1999-2000 and therefore, the respondents cannot proceed against the applicant in view of the embargo as contained in rule in question, set aside the order impugned therein with a direction to the respondents to release all the retrial benefits which are due and payable to the applicant. Having aggrieved by the same, the present writ petition is filed by the applicant.

Heard the learned counsel for the applicant as well as the learned G.P. for services-II and perused the entire material available on record including the order impugned.

The fact that remains undisputed is that the charges are barred by limitation in view of the fact that the charges pertain to the year 1990-2000 in view of the Rule 9 (2) (b) (i) and (ii) of A.P revised pension Rules which reads as under:

> **"(b)the departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during re employment;**
>
> **(i)shall not be instituted save with the sanction of the Government;**
>
> **(ii)shall not be in respect of any event which took place more than four years before such institution."**

The main thrust of the argument of the learned G.P. for Services-II is that even as per 9 (7) of the Revision Pension Rules, 1990, there is no such time limit proceed against the applicant and therefore, the tribunal is not justified in passing the order impugned.

Admittedly, the allegations relate to the year 1999-2000 and the charge memo was served on the applicant on 12.3.2004 after his retirement, that too without obtaining any sanction orders from the Government. Therefore, the action of the respondents is contrary to the provisions of Rule 9 (2) (b) (i) and (ii) of the rules, 1980.

Irrespective of the fact whether the provisions under rule 9 (7) of the Rules 1990 prescribe no such limit for recovery of the pecuniary loss or not, since the proceedings have been initiated under rule 9 (2) (b) (i) and (ii) of the Rules, 1980 and admittedly, the charges are barred by limitation as per the said rule, We feel that the respondents cannot proceed against the applicant in view of the embargo as contemplated in Rule 9 (2) (b) (i) and (ii) of the Rules as rightly observed by the tribunal.

In this back ground of the matter, We have no hesitation to hold that the tribunal is justified in passing the order impugned. We see no grounds in this writ petition and the same is liable to be dismissed.

Accordingly, this writ petition is dismissed. No costs.

(JUSTICE T.MEENAKUMARI)

31st August, 2007

(JUSTICE G.CHANDRAIAH)

gurc/nn

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO:17535 of 2007

(Order delivered by the Honourable Smt.Justice T.Meena Kumari)

31st August, 2007.